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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,175	10/31/2003	John R. Bianchi	4002-3441	1020

52196 7590 04/12/2006

KRIEG DEVAULT LLP  
ONE INDIANA SQUARE, SUITE 2800  
INDIANAPOLIS, IN 46204-2709

EXAMINER
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GHERBI, SUZETTE JAIME J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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101699175

EXAMINER
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ART UNIT	PAPER
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20060409

DATE MAILED:

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Commissioner for Patents

See Attached Document

***Response to Amendment***

The reply filed on 1/19/06 is not fully responsive to the prior Office Action because: A prior communication was mailed to applicant which stated that "*The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims (newly added claims 136-248), and where support for the amendments is found in the specification (this is interpreted as "disclosure") and how they are patentable over any applied references" (emphasis added). See MPEP 714.04 and 2163.06. See 37 CFR 1.111". Applicants response does not point out the patentable novelty which the applicant believes the claims present in view of the state of the art disclosed by the references cited or the objections made. It is also noted that applicant has added a numerous amount of dependent claims yet fails to point out where support is found in their disclosure. Applicant stated in the response dated 1/19/06 that *they could not locate the referenced language in any of the citations referred to in the office communication...*" therefore a copy of 714.04 and 714.02 are enclosed with this communication.*

Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply

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outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

***Conclusion***

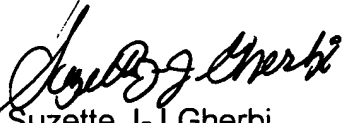
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J-J Gherbi whose work schedule is Maxi-Flex off every other Friday and whose telephone number is 571-272-4751.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Suzette J-J Gherbi  
09 April 2006

which, if appropriate, to indicate that the Office action is responsive to the reply filed in compliance with 37 CFR 1.111(b) and the supplemental reply.

3.

Do not use this form paragraph if the supplemental reply was filed within the period during which action is suspended by the Office under 37 CFR 1.103(a) or (c). Such supplemental reply must be entered. If the supplemental reply filed during the suspended period is not in compliance with 37 CFR 1.121, a notice of non-compliant amendment (PTOL-324) should be mailed to the applicant.

4.

In bracket 1, provide the date that the Office received the supplemental reply (use the date of receipt under 37 CFR 1.6, not the certificate of mailing date under 37 CFR 1.8).

5.

In bracket 2, insert a reason for non-entry as noted in 37 CFR 1.111(a)(2)(i). For example, "The supplemental reply is clearly not limited to placement of the application in condition for allowance."

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If a supplemental reply is received in the Office after the mail date of an Office action, and it is not responsive to that Office action, the Office will not mail a new Office action responsive to that supplemental reply. As a courtesy, applicant may be notified that the supplemental reply is nonresponsive to the mailed Office action and that a responsive reply (under 37 CFR 1.111 or 1.113 as the situation may be) to the mailed Office action must be timely filed to avoid abandonment. Also see MPEP § 714.03 for replies not fully responsive and MPEP § 714.05 when the Office action crosses in the mail with a supplemental reply.

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#### \* 714.04 Claims Presented in Amendment With No Attempt To Point Out Patentable Novelty

In the consideration of claims in an amended case where no attempt is made to point out the patentable novelty, the claims should *not* be allowed. See 37 CFR 1.111 and MPEP § 714.02.

An amendment failing to point out the patentable novelty which the applicant believes the claims present in view of the state of the art disclosed by the references cited or the objections made may be held to be not fully responsive and a time period set to furnish a proper reply if the statutory period has expired or almost expired (MPEP § 714.03). However, if the claims as amended are clearly open to rejection on grounds of record, a final rejection should generally be made.

#### 714.05 [R-3] Examiner Should Immediately Inspect

Actions by applicant, especially those filed near the end of the period for reply, should be inspected immediately upon filing to determine whether they are completely responsive to the preceding Office action so as to prevent abandonment of the application. If found inadequate, and sufficient time remains, applicant should be notified of the deficiencies and warned to complete the reply within the period. See MPEP § 714.03.

All amended applications forwarded to the examiner should be inspected at once to determine the following:

- (A) If the amendment is properly signed (MPEP § 714.01(a)).
- (B) If the amendment has been filed within the statutory period, set shortened period, or time limit (MPEP § 710 - § 710.05).
- (C) If the amendment is fully responsive (MPEP § 714.03 and § 714.04) and complies with 37 CFR 1.121 >(MPEP § 714)<.

proceeding, must reply and request reconsideration or further examination, with or without amendment. See § 1.135 and 1.136 for time for reply to avoid abandonment.

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(2) *Supplemental replies.* (i) A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section. The Office may enter a supplemental reply if the supplemental reply is clearly limited to:

- (A) Cancellation of a claim(s);
- (B) Adoption of the examiner suggestion(s);
- (C) Placement of the application in condition for allowance;
- (D) Reply to an Office requirement made after the first reply was filed;
- (E) Correction of informalities (e.g., typographical errors); or
- (F) Simplification of issues for appeal.

(ii) A supplemental reply will be entered if the supplemental reply is filed within the period during which action by the Office is suspended under § 1.103(a) or (c).<

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

In all cases where reply to a requirement is indicated as necessary for further consideration of the claims, or where allowable subject matter has been indicated in an application, a complete reply must either comply with the formal requirements or specifically traverse each one not complied with.

Drawing and specification corrections, presentation of a new oath and the like are generally considered as formal matters, although the filing of drawing corrections in reply to an objection to the drawings cannot normally be held in abeyance. However, the line between formal matter and those touching the merits is not sharp, and the determination of the merits of an application may require that such corrections, new oath, etc., be insisted upon prior to any indication of allowable subject matter.

714.02

The claims may be amended by canceling particular claims, by presenting new claims, or by rewriting particular claims as indicated in 37 CFR 1.121(c). The requirements of 37 CFR 1.111(b) must be complied with by pointing out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments.

An amendment submitted after a second or subsequent non-final action on the merits which is otherwise responsive but which increases the number of claims drawn to the invention previously acted upon is not to be held not fully responsive for that reason alone. (See 37 CFR 1.112, MPEP § 706.)

The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims. Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP § 2163.06.

An amendment which does not comply with the provisions of 37 CFR 1.121(b), (c), (d), and (h) may be held not fully responsive. See MPEP § \*714<.

Replies to requirements to restrict are treated under MPEP § 818.